

AMENDED IN ASSEMBLY JANUARY 4, 2016

AMENDED IN ASSEMBLY JUNE 23, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 1543**

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**Introduced by Assembly Member Brough**  
**(Principal coauthor: Assembly Member Hadley)**  
**(Coauthors: Assembly Members ~~Harper~~ Travis Allen, Chávez,**  
**Harper, and O'Donnell)**  
**(Coauthor: ~~Senator Bates~~)**  
*(Coauthors: Senators Bates, Glazer, and Moorlach)*

May 20, 2015

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An act to amend Section 597 of the Penal Code, relating to animals, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1543, as amended, Brough. Animals: abuse.

Existing law prohibits, subject to exceptions, specified acts of animal abuse including, among others, the malicious and intentional maiming, mutilation, torture, or wounding of a living animal. Under existing law, a violation of those provisions is punishable as a felony by imprisonment in a county jail for 16 months, or 2 or 3 years, or by a fine of not more than \$20,000, or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than \$20,000, or by both that fine and imprisonment.

This bill would require a person who violates the animal abuse prohibitions described above to be punished by a fine of not more than \$5,000 for each violation, in addition to the fines described above. The

bill would require those additional fines to be paid to the local public animal control agency that has jurisdiction over the location where the violation occurred. The bill would ~~generally require~~ *authorize* the agency to use the moneys paid as a fine to compensate ~~the owner or caretaker of an animal that requires medical care, rehabilitation, or recovery as a result of a violation of the animal abuse prohibitions described above for the costs incurred by the owner or caretaker for the animal's medical care, rehabilitation, or recovery.~~ *a person who incurs costs for the animal's medical care, rehabilitation, or recovery, if the owner or caretaker of the animal was the person who violated the animal abuse prohibitions described above.* The bill would also require, in addition to any other penalty provided by law, a person who violates the animal abuse prohibitions described above in a rehabilitative facility for animals to pay for and successfully complete an appropriate counseling course, as determined by the court, designed to evaluate and treat behavior or conduct disorders. The bill would define “rehabilitative facility for animals” for these purposes as a facility at which medical care or rehabilitative services are provided to animals, including, but not limited to, an animal sanctuary, animal shelter, or aquarium. By increasing the penalties for existing crimes and increasing the duties of a public animal control agency relative to the use of the moneys paid as a fine, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 597 of the Penal Code is amended to  
2 read:

597. (a) Except as provided in subdivision (c) of this section or Section 599c, a person who maliciously and intentionally maims, mutilates, tortures, or wounds a living animal, or maliciously and intentionally kills an animal, is guilty of a crime punishable pursuant to subdivision (d).

(b) Except as otherwise provided in subdivision (a) or (c), a person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills an animal, or causes or procures an animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of an animal, either as an owner or otherwise, subjects an animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses an animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty of a crime punishable pursuant to subdivision (d).

(c) A person who maliciously and intentionally maims, mutilates, or tortures a mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is guilty of a crime punishable pursuant to subdivision (d).

(d) (1) A violation of subdivision (a), (b), or (c) is punishable as a felony by imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by both that fine and imprisonment.

(2) (A) A person who violates subdivision (a), (b), or (c) shall, in addition to the fines imposed pursuant to paragraph (1), be punished by a fine of not more than five thousand dollars (\$5,000) for each violation.

(B) The fines required by subparagraph (A) shall be paid to the local public animal control agency that has jurisdiction in the location where the violation was committed.

~~(C) Except as provided in subparagraph (E), the local public animal control agency shall use the moneys paid as a fine pursuant~~

1 subparagraph (A) to compensate the owner or caretaker, including  
2 a nonprofit organization, of an animal that requires medical care,  
3 rehabilitation, or recovery as a result of a violation of subdivision  
4 (a), (b), or (c) for the costs incurred by the owner or caretaker for  
5 the animal's medical care, rehabilitation, or recovery.

6 (C) *The fines required by subparagraph (A) shall not be subject*  
7 *to the provisions of Sections 70372, 76000, 76000.5, and 76104.6*  
8 *of the Government Code, or Sections 1464 and 1465.7 of this code.*

9 (D) (i) If the owner or caretaker of an animal that requires  
10 medical care, rehabilitation, or recovery as a result of a violation  
11 of subdivision (a), (b), or (c) is the person who violated any of  
12 those subdivisions, the owner or caretaker shall not receive money  
13 from the local public animal control agency, and instead, moneys  
14 paid to the agency as a fine pursuant to subparagraph (A) may be  
15 used to compensate ~~another~~ a person, including a nonprofit  
16 organization, who incurs costs for the animal's medical care,  
17 rehabilitation, or recovery.

18 (ii) If an animal that requires medical care, rehabilitation, or  
19 recovery as a result of a violation of subdivision (a), (b), or (c) has  
20 no identifiable owner or caretaker, the local public animal control  
21 agency may use moneys paid to the agency as a fine pursuant to  
22 subparagraph (A) to compensate a person, including a nonprofit  
23 organization, who incurs costs for the animal's medical care,  
24 rehabilitation, or recovery.

25 (3) (A) Except as provided in subdivision (h), a person who  
26 violates subdivision (a), (b), or (c) in a rehabilitative facility for  
27 animals shall, in addition to any other penalty provided by law,  
28 pay for and successfully complete an appropriate counseling course,  
29 as determined by the court, designed to evaluate and treat behavior  
30 or conduct disorders. If the court finds that a defendant is  
31 financially unable to pay for that counseling, the court may develop  
32 a sliding fee schedule based upon the defendant's ability to pay.  
33 An indigent defendant may negotiate a deferred payment schedule,  
34 but shall pay a nominal fee if the defendant has the ability to pay  
35 the nominal fee. If an indigent defendant cannot pay the nominal  
36 fee, the fee shall be waived.

37 (B) For purposes of this paragraph, "rehabilitative facility for  
38 animals" means a facility at which medical care or rehabilitative  
39 services are provided to animals, including, but not limited to, an  
40 animal sanctuary, animal shelter, or aquarium.

(e) (1) Subdivision (c) applies to a mammal, bird, reptile, amphibian, or fish that is a creature described as follows:

(A) Endangered species or threatened species as described in Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code.

(B) Fully protected birds described in Section 3511 of the Fish and Game Code.

(C) Fully protected mammals described in Chapter 8 (commencing with Section 4700) of Part 3 of Division 4 of the Fish and Game Code.

(D) Fully protected reptiles and amphibians described in Chapter 2 (commencing with Section 5050) of Division 5 of the Fish and Game Code.

(E) Fully protected fish as described in Section 5515 of the Fish and Game Code.

(2) This subdivision does not supersede or affect any law relating to taking of the described species, including, but not limited to, Section 12008 of the Fish and Game Code.

(f) For the purposes of subdivision (c), each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subdivision (e) is a separate offense. If a person is charged with a violation of subdivision (c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

(g) (1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

(2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

1 (h) Notwithstanding any other law, if a defendant is granted  
2 probation for a conviction under this section, the court shall order  
3 the defendant to pay for, and successfully complete, counseling,  
4 as determined by the court, designed to evaluate and treat behavior  
5 or conduct disorders. If the court finds that the defendant is  
6 financially unable to pay for that counseling, the court may develop  
7 a sliding fee schedule based upon the defendant's ability to pay.  
8 An indigent defendant may negotiate a deferred payment schedule,  
9 but shall pay a nominal fee if the defendant has the ability to pay  
10 the nominal fee. County mental health departments or Medi-Cal  
11 shall be responsible for the costs of counseling required by this  
12 section only for those persons who meet the medical necessity  
13 criteria for mental health managed care pursuant to Section  
14 1830.205 of Title 9 of the California Code of Regulations or the  
15 targeted population criteria specified in Section 5600.3 of the  
16 Welfare and Institutions Code. The counseling specified in this  
17 subdivision shall be in addition to any other terms and conditions  
18 of probation, including any term of imprisonment and any fine.  
19 This subdivision specifies a mandatory additional term of probation  
20 and is not to be utilized as an alternative in lieu of imprisonment  
21 pursuant to subdivision (h) of Section 1170 or county jail when  
22 that sentence is otherwise appropriate. If the court does not order  
23 custody as a condition of probation for a conviction under this  
24 section, the court shall specify on the court record the reason or  
25 reasons for not ordering custody. This subdivision shall not apply  
26 to cases involving police dogs or horses as described in Section  
27 600.

28 SEC. 2. No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution for certain  
30 costs that may be incurred by a local agency or school district  
31 because, in that regard, this act creates a new crime or infraction,  
32 eliminates a crime or infraction, or changes the penalty for a crime  
33 or infraction, within the meaning of Section 17556 of the  
34 Government Code, or changes the definition of a crime within the  
35 meaning of Section 6 of Article XIII B of the California  
36 Constitution.

37 However, if the Commission on State Mandates determines that  
38 this act contains other costs mandated by the state, reimbursement  
39 to local agencies and school districts for those costs shall be made

1 pursuant to Part 7 (commencing with Section 17500) of Division  
2 4 of Title 2 of the Government Code.

3 SEC. 3. This act is an urgency statute necessary for the  
4 immediate preservation of the public peace, health, or safety within  
5 the meaning of Article IV of the Constitution and shall go into  
6 immediate effect. The facts constituting the necessity are:

7 In order to provide victims of animal abuse with restitution for  
8 the costs associated with medical care and recovery for animals  
9 resulting from that abuse at the earliest possible time, it is necessary  
10 for this act to take effect immediately.

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